

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE:)	CASE NO. 14-69570-LRC
)	
GARY THOMAS STEVENS)	CHAPTER 13
MICHELLE HUETTER STEVENS)	
)	
Debtor.)	

MOTION TO RATIFY LOAN MODIFICATION

NOW COMES the Debtor, GARY THOMAS STEVENS and MICHELLE HUETTER STEVENS, in the above-styled case, by and through their attorney of record, Howard Slomka, Esq., and files this Motion to Ratify Loan Modification, showing the court as follows:

1.

This court has jurisdiction in this matter pursuant to 28 U.S.C. §1334, 151, et seq. and 11 U.S.C. §101 et seq.

2.

Venue is appropriate pursuant to 28 U.S.C. §1409.

3.

The matter is a core proceeding as described in 28 U.S.C. §157(b)(2)(A).

4.

The Debtor filed for relief in the above-styled Chapter 13 case on October 6, 2014. Debtor's Chapter 13 plan was confirmed on April 10, 2015.

5.

In order to meet the disposable income test of 11 U.S.C. Section 1325(b) and to comply with the terms and provisions of Debtor's Chapter 13, the Debtor's Chapter 13

requires that Debtor not refinance or modify any loans without the Court's approval.

6.

On or about September 13, 2016, Debtor and their mortgage loan servicer, Ocwen Loan Servicing, LLC ("Ocwen") agreed to a mortgage loan modification for the mortgage loan on Debtor's property located at 1476 Fallsbrook Court, NW, Acworth, GA 30101 (the "Property"). On December 28, 2016, prior counsel for Debtor filed with this Court a Motion to Approve Loan Modification (Doc. No. 70)(the "First Motion"). The First Motion was denied by Order of this Court entered on July 26, 2017 (Doc. No. 78) because the First Motion was set for hearing January 26, 2017 but was removed from the Court's calendar due to insufficient service and Debtor's prior counsel failed to reset the matter for hearing. On August 1, 2017, prior counsel for Debtor filed with this Court a Motion to Approve Loan Modification (Doc. No. 80)(the "Second Motion"). Hearing on the Second Motion was held on August 24, 2017 and at the hearing this Court granted the Second Motion, however, Debtor's prior counsel failed to submit a no opposition order on the Second Motion and this Court entered an Order on March 7, 2018 (Doc. No. 88) denying the Second Motion without prejudice for want of prosecution.

7.

Debtor wishes to ratify the loan modification with Ocwen for the mortgage loan on Debtor's Property. The loan modification is in the best interest of Debtor as it will allow them to retain the Property, prevent a foreclosure of the Property and provide a home for their themselves and their six dependents.

8.

The Debtor respectfully requests that court ratify their loan modification with

Ocwen as set forth in the First Motion and Second Motion.

WHEREFORE, Debtor prays that this Motion be filed, read, and considered, that this court ratify Debtor's loan modification with Ocwen; and

That this court grants such other and further relief as it may deem just and proper under the circumstances.

Respectfully submitted this 23rd day of April, 2018.

_____/s/
Howard P. Slomka
Georgia Bar #652875
Attorney for the Debtor
Slipakoff & Slomka, PC
Overlook III
2859 Paces Ferry Rd, SE
Suite 1700
Atlanta, GA 30339

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Debtors.)	

NOTICE OF HEARING

PLEASE TAKE NOTICE that Debtor, GARY THOMAS STEVENS and MICHELLE HUETTER STEVENS, has filed a Motion to Ratify Loan Modification and related papers with the Court seeking an order to retain tax refund.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing will be held on the Motion in Courtroom 1204, United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303 at 1:45 P.M. on May 22, 2018.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least three business days before the hearing. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Suite 1340, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

Dated: April 23, 2018

_____/s/_____
Howard P. Slomka
Georgia Bar #652875
Attorney for the Debtor
Slipakoff & Slomka, PC
Overlook III
2859 Paces Ferry Rd, SE
Suite 1700
Atlanta, GA 30339

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CERTIFICATE OF SERVICE

THIS TO CERTIFY that I have this day served a true and correct copy of the MOTION TO RATIFY LOAN MODIFICATION AND NOTICE OF HEARING on the following parties, by depositing a copy of the same in the United States Mail in a properly addressed envelope with adequate postage affixed thereon to insure proper delivery:

Melissa J. Davey, Standing Ch 13 Trustee (served via ECF)
Suite 200
260 Peachtree Street, NW
Atlanta, GA 30303

Gary and Michelle Stevens
1476 Fallsbrook Court
Acworth, GA 30101

U.S. Bank National Association, as Trustee for TBW Mortgage-Backed
Trust Series 2006-5, TBW Mortgage Pass-Through Certificates,
Series 2006-5
c/o Ocwen Loan Servicing, LLC
Attn: Bankruptcy Department
P.O. BOX 24605
West Palm Beach, FL 33416-4605¹

Ocwen Loan Servicing, LLC
1661 Worthington Road, Suite 100
West Palm Beach, FL 33409
Attn: Christopher Kelley²

¹ Address for notices per Proof of Claim No. 5-1 filed in Case No. 14-69570

² Signatory to Proof of Claim No. 5-1 filed in Case No. 14-69570 and principal office address per Georgia Secretary of State

Ocwen Loan Servicing, LLC
c/o Corporation Service Company
40 Technology Parkway, South Suite 300
Norcross, GA 30092³

OCWEN LOAN SERVICING, LLC
c/o CORPORATION SERVICE COMPANY
251 LITTLE FALLS DRIVE
WILMINGTON, DE 19808⁴

Date: April 23, 2018

_____/s/_____
Howard P. Slomka
Georgia Bar #652875
Attorney for the Debtor
Slipakoff & Slomka, PC
Overlook III
2859 Paces Ferry Rd, SE
Suite 1700
Atlanta, GA 30339

³ Registered agent per Georgia Secretary of State website

⁴ Registered agent per Delaware Secretary of State